

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1496**

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**Introduced by Assembly Member Skinner**

February 27, 2009

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An act to amend Section 7028.7 of, and to add Section 7110.05 to, the Business and Professions Code, relating to energy efficiency.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1496, as amended, Skinner. Contractors: energy efficiency measures.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Under existing law, a citation may be issued to, and penalties assessed against, a person acting in the capacity of or engaging in the business of a contractor without a license. Under existing law, the board may take disciplinary action against a contractor for committing specified acts. Existing law makes state or local agencies responsible for the enforcement of building standards.

This bill would make unlicensed contractors who fail to comply with specified building energy efficiency standards subject to a civil penalty of not less than \$2,000. The bill would specify that the failure of a licensee to comply with the building energy efficiency standards constitutes a cause for disciplinary action, ~~except in certain circumstances~~. The bill would also provide that the failure of a licensee to obtain a building permit, in specified circumstances, shall be subject to a citation and a civil penalty of not less than \$500. The bill would

require the board, beginning July 1, 2011, and each fiscal year thereafter, to compile data and to submit a report to the Legislature no later than the first business day in October that includes the number of penalties assessed by the board against licensees and unlicensed contractors for failure to comply with these standards. The bill would require the State Energy Resources Conservation and Development Commission to collaborate with the board with respect to identifying and investigating the failure of licensees and unlicensed contractors to comply with these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. It is the intent of the Legislature to enact  
2     legislation that mitigates the urban heat island effect by reducing  
3     summertime urban air temperatures. Reducing the effect of urban  
4     heat islands will help address the impact of rising temperatures  
5     associated with global warming, and therefore improve air quality,  
6     reduce energy use, and improve overall thermal comfort.  
7     SEC. 2. The Legislature finds and declares all of the following:  
8     (a) The term “heat island” refers to urban air and surface  
9     temperatures that are sometimes nearly 10 degrees Fahrenheit  
10    higher than nearby rural areas. Pavement, buildings, low reflective  
11    building roofs, and other infrastructure that absorb the sun’s  
12    radiation and trap heat result in increased temperature in urban  
13    areas.  
14    (b) Higher temperatures from the urban heat island effect are  
15    responsible for 5 to 10 percent of urban peak electric demand from  
16    air-conditioners, and as much as 20 percent of population-weighted  
17    smog concentrations in urban areas.  
18    (c) The urban heat island effect poses a serious threat to the  
19    economic well-being, public health, natural resources, and the  
20    environment of California.  
21    (d) A distinction between urban heat islands and global warming  
22    exists. Heat islands describe local-scale temperature differences,  
23    generally between urban and rural areas. In contrast, global  
24    warming refers to a gradual rise of the earth’s surface temperature.  
25    While they are distinct phenomena, summertime heat islands both  
26    intensify the effect of rising temperatures due to global warming

1 and may contribute to global warming by increasing demand for  
2 air-conditioning, which results in additional powerplant emissions  
3 of heat-trapping greenhouse gases. Strategies to reduce heat islands,  
4 therefore, can mitigate the impacts of rising temperatures and also  
5 reduce the emissions that contribute to global warming.

6 (e) California's building energy efficiency standards, specified  
7 in Part 6 of Title 24 of the California Code of Regulations, include  
8 specifications for cool roofing materials and other measures for  
9 newly constructed buildings and alterations or additions to existing  
10 buildings. Effective application of these standards will increase  
11 the level of energy efficiency of California's buildings and reduce  
12 the impacts of both urban heat islands and global warming, thus  
13 increasing California's ability to cope with warming from climate  
14 changes that may be unavoidable.

15 (f) California's building energy efficiency standards, specified  
16 in Part 6 of Title 24 of the California Code of Regulations,  
17 represent a state resource for accomplishing increased building  
18 energy efficiency, not only in newly constructed buildings but also  
19 in additions and alterations to existing buildings. These standards  
20 are recognized as leading the nation in energy savings and serving  
21 as one of the primary energy policy tools that has resulted in  
22 California's per capita energy use staying essentially constant over  
23 the past 30 years while that of the rest of the United States  
24 increased steadily.

25 (g) The effectiveness of the building energy efficiency standards  
26 is dependent on the conscientious efforts of licensed contractors  
27 in California to build buildings and install equipment in compliance  
28 with the standards.

29 (h) The Governor and the Legislature recognize that many  
30 buildings are being reroofed without a permit. Contractors  
31 operating in the underground economy are in flagrant violation of  
32 California contracting law. In particular, contractors operating  
33 without a license, and whether licensed or not, willfully and  
34 deliberately fail to obtain a building permit and willfully and  
35 deliberately fail to comply with the building laws of the state.  
36 Unlicensed and licensed contractors who market their services  
37 with these underground practices represent unfair competition,  
38 undercutting legitimate contractors who endeavor to  
39 conscientiously comply with contracting and building laws. This  
40 underground activity denies state and local governments license

1 and building permit revenue, diminishing the ability of state and  
2 local agencies to provide enforcement services intended to ensure  
3 compliance with these laws. These practices particularly damage  
4 and diminish the potential for conscientious compliance with the  
5 building energy efficiency standards.

6 (i) The mission of the Contractors' State License Board is to  
7 protect consumers by regulating contractors to promote the health,  
8 safety, and general welfare of the public in matters related to  
9 construction. As a part of fulfilling this mission, it is important for  
10 the board's enforcement program to include efforts to eradicate  
11 the underground practice of performing construction work without  
12 building permits and failing to comply with the building energy  
13 efficiency standards. It has become critically important for the  
14 board to send a strong, definitive message to those whose objective  
15 is illegal financial gain at the expense of safe building practices  
16 and energy efficiency. In particular, the board should not tolerate  
17 illegal practices related to building energy efficiency standards.  
18 These violations eventually result in a substantial financial loss to  
19 consumers who purchase the relevant services, and epitomize  
20 unfair competition that dramatically impacts the economic viability  
21 of legitimate businesses. It is also important to foster a business  
22 climate favorable to legitimate competition, so that conscientious  
23 contractors are able to sustain their businesses by performing  
24 quality construction and installing efficient energy-related  
25 equipment in compliance with the building energy efficiency  
26 standards. Notably, the mitigation of the urban heat island effect  
27 will be a significant and beneficial result of the board's  
28 enforcement activities.

29 SEC. 3. Section 7028.7 of the Business and Professions Code  
30 is amended to read:

31 7028.7. (a) If upon inspection or investigation, either upon  
32 complaint or otherwise, the registrar has probable cause to believe  
33 that a person is acting in the capacity of or engaging in the business  
34 of a contractor or salesperson within this state without having a  
35 license or registration in good standing to so act or engage, and  
36 the person is not otherwise exempted from this chapter, the registrar  
37 shall issue a citation to that person. Within 72 hours of receiving  
38 notice that a public entity is intending to award, or has awarded,  
39 a contract to an unlicensed contractor, the registrar shall give  
40 written notice to the public entity that a citation may be issued if

1 a contract is awarded to an unlicensed contractor. If after receiving  
2 the written notice from the registrar that the public entity has  
3 awarded or awards the contract to an unlicensed contractor, the  
4 registrar may issue a citation to the responsible officer or employee  
5 of the public entity as specified in Section 7028.15. Each citation  
6 shall be in writing and shall describe with particularity the basis  
7 of the citation. Each citation shall contain an order of abatement  
8 and an assessment of a civil penalty in an amount not less than  
9 two hundred dollars (\$200) nor more than fifteen thousand dollars  
10 (\$15,000). With the approval of the Contractors' State License  
11 Board, the registrar shall prescribe procedures for the issuance of  
12 a citation under this section. The Contractors' State License Board  
13 shall adopt regulations covering the assessment of a civil penalty  
14 that shall give due consideration to the gravity of the violation,  
15 and any history of previous violations. The sanctions authorized  
16 under this section shall be separate from, and in addition to, all  
17 other remedies either civil or criminal.

18 (b) Any person described in subdivision (a) who fails to comply  
19 with the building energy efficiency standards specified in Part 6  
20 of Title 24 of the California Code of Regulations shall also be  
21 subject to a civil penalty in an amount not less than two thousand  
22 dollars (\$2,000). This sanction shall be separate from, and in  
23 addition to, all other remedies, either civil or criminal.

24 SEC. 4. Section 7110.05 is added to the Business and  
25 Professions Code, to read:

26 7110.05. (a) The failure of a licensee to comply with the  
27 building energy efficiency standards specified in Part 6 of Title  
28 24 of the California Code of Regulations constitutes a cause for  
29 ~~disciplinary action unless the licensee complied with plans and~~  
30 ~~specifications prepared by or under the direct supervision of an~~  
31 ~~architect or professional engineer.~~ *disciplinary action.*

32 (b) A licensee who fails to obtain a building permit prior to  
33 commencement of a work of improvement subject to the standards  
34 described in subdivision (a) shall be subject to a citation and an  
35 assessment of a civil penalty in an amount not less than five  
36 hundred dollars (\$500). Prior to issuing a penalty pursuant to this  
37 section, due consideration shall be given to subdivisions (b), (c),  
38 and (d) of Section 884 of Division 8 of Title 16 of the California  
39 Code of Regulations.

- 1 (c) Beginning with the fiscal year commencing on July 1, 2011,  
2 and each fiscal year thereafter, the board shall compile the essential  
3 data necessary to create a report identifying the number of civil  
4 penalties that the board assessed during the previous fiscal year  
5 against licensees and unlicensed contractors for failure to comply  
6 with the standards described in subdivision (a) of this section and  
7 subdivision (b) of Section 7028.7. This report shall be submitted  
8 to the Legislature no later than the first business day in October  
9 of each year.
- 10 (d) The State Energy Resources Conservation and Development  
11 Commission shall collaborate with the board to identify and  
12 investigate the failure of licensees and unlicensed contractors to  
13 comply with the building energy efficiency standards and to obtain  
14 building permits.